

## ATTACHMENT C

### PALO ALTO'S RPS ENFORCEMENT PROGRAM

# **CITY OF PALO ALTO'S PROGRAM FOR ENFORCEMENT OF THE RENEWABLE PORTFOLIO STANDARDS PROGRAM**

#### PROVISIONS:

- A. On April 12, 2011, the Governor of the State of California signed California Senate Bill 2 of the First Extraordinary Session (SBX1-2, Chapter 1, Statutes of 2011, First Extraordinary Session), known as the *California Renewable Energy Resources Act*.
- B. SBX1-2 states the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 33% of total retail sales of electricity in California per year by December 31, 2020.
- C. Pursuant to the provisions of Public Utilities Code section 399.30(a), in order to fulfill unmet long-term generation resource needs, the City must adopt and implement a renewable energy resources procurement plan (hereinafter referred to as the "RPS Procurement Plan") that requires the City to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of the total kilowatt-hours sold to the City's retail end-use customers each compliance period, to achieve specified procurement targets.
- D. On March 7, 2011 the City Council adopted Resolution No. 9152 approving the Long-term Electric Acquisition Plan (LEAP) Objectives, Strategies, and Implementation Plan, which included a target level of renewable purchases of 33% by 2015 that are deemed to be eligible by the California Energy Commission.
- E. The aforementioned LEAP does not address the specific Procurement Plan provisions required by Public Utilities Code section 399.30.
- F. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that recognizes compliance periods (Compliance Periods) pursuant to Public Utilities Code section 399.30(b). Such Compliance Periods shall be January 1, 2011 to December 31, 2013, inclusive (Compliance Period 1), January 1, 2014 to December 31, 2016, inclusive (Compliance Period 2), January 1, 2017 to December 31, 2020, inclusive (Compliance Period 3), and each calendar year after 2020.
- G. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that recognizes specified procurement targets (Procurement Targets) of renewable energy resources for each Compliance Period pursuant to Public Utilities Code section 399.30(c)(1) and (2). Procurement Targets must average twenty percent (20%) of retail sales for the period January 1, 2011 to December 31, 2013, must meet twenty-five percent (25%) of retail sales by December 31, 2016, must meet thirty-three percent (33%) of retail sales by December 31, 2020, and must meet thirty-three percent (33%) of retail sales for all years thereafter.

- H. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that includes provisions that address a demonstration of reasonable progress in 2014 and 2015 to ensure the twenty five percent (25%) RPS procurement requirement by 2016, and reasonable progress in each of 2017, 2018, and 2019 to ensure the thirty three percent (33%) RPS procurement requirement by 2020, pursuant to Public Utilities Code section 399.30(c)(2).
- I. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that includes definitions for three renewable product content categories (Content Categories) pursuant to Public Utilities Code section 399.30(c)(3) and consistent with Public Utilities Code section 399.16.
- J. The City's RPS Procurement Plan shall include three Content Categories defined as: "Content Category 1" consistent with Public Utilities Code section § 399.16(b)(1) (A) and (B), "Content Category 2" consistent with Public Utilities Code section 399.16(b)(2), and "Content Category 3" consistent with Public Utilities Code § 399.16(b)(3).
- K. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that recognizes the minimum procurement requirements (Procurement Requirements) of eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 for each Compliance Period, consistent with Public Utilities Code section 399.30(c)(3) and section 399.16.
- L. The City's RPS Procurement Plan shall recognize Content Category 1 Procurement Requirements of not less than fifty percent (50%) of the eligible renewable energy resource electricity for Compliance Period 1, not less than sixty-five percent (65%) of the eligible renewable energy resource electricity for Compliance Period 2, and not less than seventy-five percent (75%) of the eligible renewable energy resource electricity for Compliance Period 3 and every year thereafter, consistent with Public Utilities Code section 399.16(c)(1).
- M. The City's RPS Procurement Plan shall recognize Content Category 3 Procurement Requirements of not more than twenty-five percent (25%) of the eligible renewable energy resource electricity for Compliance Period 1, not more than fifteen percent (15%) of the eligible renewable energy resource electricity for Compliance Period 2, and not more than ten percent (10%) of the eligible renewable energy resource electricity for Compliance Period 3, consistent with Public Utilities Code section 399.16(c)(2).
- N. The City's RPS Procurement Plan shall recognize Content Category 2 resources to meet the remaining RSP obligation for any given Compliance Period.
- O. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that provides a definition for contract or ownership agreements originally executed prior to June 1, 2010 (Grandfathered Resources) consistent with Public Utilities Code section 399.16(d). Grandfathered Resources shall include any contract or ownership agreement originally executed prior to June 1, 2010 for resources that were RPS eligible under the rules in place when the contract was executed, and for which any

subsequent contract amendments or modifications occurring after June 1, 2010 do not increase the nameplate capacity for the facility or expected quantities of annual generation, or substitute a different renewable energy resource; the duration of the contract may be extended if the original contract specified a procurement commitment of fifteen (15) or more years.

- P. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that includes rules for application of excess procurement (Excess Procurement) of eligible renewable energy resource electricity from one Compliance Period to a subsequent Compliance Period consistent with Public Utilities Code section 399.30(d)(1) and in the same manner as section 399.13(a)(4)(B). Beginning January 1, 2011, Excess Procurement from one Compliance Period may be applied to a subsequent Compliance Period; to determine the quantity of Excess Procurement for the applicable Compliance Period, the City shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than ten (10) years in duration, and shall not include any resources designated as Content Category 3.
- Q. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that includes conditions for delaying timely compliance consistent with Public Utilities Code section 399.30(d)(2) and section 399.15(b). The City may approve a waiver of timely compliance (Waiver of Timely Compliance) in the event that there is inadequate transmission capacity (§ 399.15(b)(5)(A)), permitting, interconnection, or other factors that delay procurement, or insufficient supply (§ 399.15(b)(5)(B)), unanticipated curtailment are mandated to address needs of the balancing authority (§ 399.15(b)(5)(C)), or related factors existed.
- R. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that establishes procedures to employ in the event of an approval of a Waiver of Timely Compliance, which provisions require the City to establish additional reporting for intervening years to demonstrate that reasonable actions under the City's control are being taken (§ 399.15(b)(6)) and to demonstrate that all reasonable actions within the City's control have been taken to ensure compliance in the future (§ 399.15(b)(7)); in no event shall the deficit from prior compliance periods be added to subsequent compliance periods in the event of a Waiver of Timely Compliance (§ 399.15(b)(9)).
- S. The City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that establishes procedures that address cost limitations for expenditures on renewable resources (Cost Limitations for Expenditures) consistent with Public Utilities Code section 399.30(d)(3) and section 399.15(c). Cost Limitations for Expenditures may be applicable to procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard, and may be based on factors that include, but are not limited to, the most recent renewable energy procurement plan, procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources, and the potential that some planned resource additions may be delayed or canceled.

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- T. Pursuant to the provisions of Public Utilities Code section 399.30(m), the City shall retain discretion over the mix of eligible renewable energy resources procured by the City and those additional generation resources procured by the City for purposes of ensuring resource adequacy and reliability, and the reasonable costs incurred by the City for eligible renewable energy resources owned by it.
- U. Pursuant to the provisions of Public Utilities Code section 399.30(e), the City is required to adopt a program for the enforcement of the RPS program on or before January 1, 2012.
- V. The City Council, in compliance with Public Utilities Code section 399.30(e), has provided not less than thirty days' notice of the proposed adoption of the RPS Enforcement Program.

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- 1. The City shall have a program for the enforcement of RPS program, which shall include all of the provisions set forth herein and shall be known as the City's "RPS Enforcement Program";
- 2. The RPS Enforcement Program shall be effective January 1, 2012;
- 3. Not less than ten (10) days' advance notice shall be given to the public before any meeting is held to make a substantive change to the RPS Enforcement Program;
- 4. Annually, the City Manager or his designee, the Director of Utilities shall cause to be reviewed, the City's RPS Procurement Plan to determine compliance the RPS program;
- 5. Annual review of the RPS Procurement Plan shall include consideration of each of the following elements:
  - A. By December 31, 2013 (end of Compliance Period 1):
    - Verify that City has met an average of twenty percent (20%) of retail sales with eligible renewable resources from the specified Content Categories for the period January 1, 2011 to December 31, 2013.
    - If targets are not met, the City must:
      - Ensure than any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan,
      - Review the applicability and appropriateness of excusing performance based on the Cost Limitations on Expenditures provisions of the RPS Procurement Plan.

- B. By December 31, 2014:
- Ensure that the City is making reasonable progress toward meeting the December 31, 2016 compliance obligation of twenty-five percent (25%) of retail sales with eligible renewable resources, consistent with the RPS Procurement Plan.
- C. By December 31, 2015:
- Ensure that the City is making reasonable progress toward meeting the December 31, 2016 compliance obligation of twenty-five percent (25%) of retail sales with eligible renewable resources, consistent with the RPS Procurement Plan.
- D. December 31, 2016 (end of Compliance Period 2):
- Verify that the City has met twenty-five percent (25%) of retail sales with eligible renewable resources from the specified Content Categories for the period ending December 31, 2016;
  - If targets are not met, the City must:
    - Review the applicability of applying Excess Procurement from Compliance Period 1 consistent with the provisions of the RPS Procurement Plan,
    - Ensure that any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan,
    - Review applicability and appropriateness of excusing performance based on the Cost Limitations on Expenditures provisions of the RPS Procurement Plan.
- E. By December 31, 2017:
- Ensure that the City is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty-three percent (33%) renewable resources electricity, consistent with the RPS Procurement Plan.
- F. By December 31, 2018:
- Ensure that the City is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty-three percent (33%) renewable resources electricity, consistent with the RPS Procurement Plan.
- G. By December 31, 2019:
- Ensure that the City is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty three percent (33%)

renewable resources electricity, consistent with the RPS Procurement Plan.

- H. December 31, 2020 (end of Compliance Period 3), and annually thereafter,
- Verify that that the City met thirty-three percent (33%) of retail sales with eligible renewable resources from the specified Content Categories, consistent with the RPS Procurement Plan;
  - If targets are not met, the City must:
    - Review the applicability of applying Excess Procurement from a previous Compliance Period consistent with the provisions of the RPS Procurement Plan,
    - Ensure than any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan,
    - Review applicability and appropriateness of excusing performance based on the Cost Limitations on Expenditures provisions of the RPS Procurement Plan.
6. If it is determined that the City has failed to comply with the provisions of its RPS Procurement Plan, the City Council shall take steps to correct any untimely compliance, including requiring the City Manager or his designee, the Director of Utilities to:
- a. review the City's RPS Procurement Plan to determine what changes, if any, are necessary to ensure compliance in the next Compliance Period;
  - b. report quarterly to the City Council regarding the progress being made toward meeting the compliance obligation for the next Compliance Period;
  - c. report to the City Council regarding the status of meeting subsequent compliance targets, and all steps being taken to ensure that the obligation is timely met.
7. Effective Date: This Resolution shall be effective on January 1, 2012.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.